

Senate Bill No. 62

CHAPTER 76

An act to amend Sections 14556.5, 14556.8, and 63048.65 of the Government Code, to amend Section 99310.6 of the Public Utilities Code, to amend Section 7102 of, to amend Section 7102 of, and to add Section 7107 to, the Revenue and Taxation Code, to amend Sections 183 and 188.10 of the Streets and Highways Code, and to add and repeal Section 4000.39 of the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2005. Filed with
Secretary of State July 19, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 62, Committee on Budget and Fiscal Review. Transportation.

(1) Existing law provides that the Department of Finance may establish the accounting and reporting system used to determine the expenditures, cash needs, and balance of the State Highway Account, the Public Transportation Account, the Toll Bridge Seismic Retrofit Account, and the Traffic Congestion Relief Fund.

This bill would instead authorize the department to adjust the budgeting, accounting, and reporting system for those accounts so that unliquidated encumbrances are not reflected in the fund balance or financial statements.

(2) Existing law, Article XIX B of the California Constitution, dedicates certain gasoline sales tax revenues to transportation purposes, unless this provision is suspended by a 2/3 vote of the Legislature. Existing law, prior to Article XIX B, had provided for the transfer of certain General Fund revenues attributable to the sales tax on gasoline to the Transportation Congestion Relief Fund for expenditure on specified transportation capital improvement projects. Existing law authorizes money in the Transportation Congestion Relief Fund derived from the General Fund and not immediately needed for expenditures on projects to be loaned to the General Fund through the annual Budget Act, subject to a requirement that the loaned funds be repaid when needed for projects as determined by the Director of Finance, but not later than June 30, 2006.

This bill would delete the requirement for the loaned funds to be repaid by June 30, 2006. The bill would instead require the loaned funds to be repaid from proceeds of bonds sold by the California Infrastructure and Economic Development Bank as a result of the securitization of moneys paid by certain Indian tribes that have gaming compacts with the state. To the extent that the proceeds from those bonds are insufficient to repay the loans, the bill would require repayment of any remaining loan amount

from future tribal gaming revenues, additional securitizations against those revenues, or the General Fund.

(3) Existing law provides for payment to the state of certain amounts under tribal-state gaming compacts, and provides for the issuance of bonds secured by those compact assets, with specified amounts of the net proceeds to be transferred to various transportation accounts.

This bill would revise those amounts.

(4) Existing law, pursuant to Proposition 116 of 1990, creates the Public Transportation Account as a trust fund, and provides that funds are to be deposited in the account from certain sales taxes on fuels, and are available for expenditure only for transportation planning and mass transportation purposes. These provisions are an initiative act that may be amended by the Legislature only by a 2/3 vote of both houses and only if the amending statute is consistent with, and furthers the purposes of, the initiative act.

This bill would provide for the transfer of certain revenues from sales taxes on fuels in the 2005-06 fiscal year and in the 2006-07 fiscal year to the General Fund instead of depositing them in the Public Transportation Account.

(5) Existing law, pursuant to Article XIX B of the California Constitution, provides that revenues derived from motor vehicle fuel sales taxes in the General Fund that are transferred to the Transportation Investment Fund are subject to appropriation by the Legislature.

This bill would appropriate the moneys transferred to the Transportation Investment Fund for the 2005-06, 2006-07, and 2007-08 fiscal years for disbursement in the manner and for the purposes set forth in a specified statute.

(6) Existing law, on and after January 1, 2006, requires the Department of Motor Vehicles to suspend, cancel, or revoke the registration of a vehicle when it is determined that the vehicle registration was attained by providing false evidence of financial responsibility or upon notification by an insurance company that the required coverage has been canceled.

Existing law, on and after January 1, 2006, and for the duration of certain low-cost automobile insurance pilot programs, requires the department to provide residents of Los Angeles County and San Francisco County with specified information regarding affordable automobile insurance on the suspension, cancellation, or revocation notification document, in plain, bold type not less than 12 point in size, and in both English and Spanish.

This bill would require the department to implement these requirements in existing law on January 1, 2006, except as specified.

The bill would require the Director of Finance, on January 1, 2006, to determine whether the department has commenced implementation of these notification requirements on that date. If the department has not commenced implementation of those requirements on that date, the bill would require the director to determine whether the failure to implement was due to circumstances beyond the control of the department. The bill

would require the director to report to the Governor and the Legislature on February 1, 2006, regarding his or her findings regarding the department's implementation or failure to implement.

The bill would extend the date for implementation of these provisions from January 1, 2006, to March 1, 2006, if the director's report states that the department did not implement the specified requirements on January 1, 2006, and the failure to implement was due to circumstances beyond the control of the department.

The bill would require the director to make similar determinations and reports every 60 days upon finding that the department has not met with the prior established implementation date and would extend that deadline in 60-day increments if the director's latest report states that the department did not meet that implementation date, and the failure to implement was due to circumstances beyond the control of the department.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 14556.5 of the Government Code is amended to read:

14556.5. (a) The Traffic Congestion Relief Fund is hereby created in the State Treasury. The fund shall include deposits of funds provided in the annual Budget Act, provided from the Transportation Investment Fund established under Section 7104 of the Revenue and Taxation Code, or provided under any other statute. Notwithstanding Section 13340, the money in the fund is hereby continuously appropriated to the department, without regard to fiscal years, as follows:

(1) For allocation by the department, as directed by the commission pursuant to Section 14556.20, to the department and other regional and local transportation entities for the projects listed in Article 5 (commencing with Section 14556.40).

(2) For allocation by the Controller, the sum of four hundred million dollars (\$400,000,000), for allocation during the 2000–01 fiscal year to cities, counties, and cities and counties, pursuant to Section 2182 of the Streets and Highways Code.

(3) For allocation by the commission to the funding exchange program authorized by Section 182.8 of the Streets and Highways Code.

(b) Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the fund so that unliquidated encumbrances are not reflected in the fund balance or financial statements.

SEC. 2. Section 14556.8 of the Government Code is amended to read:

14556.8. (a) (1) To the extent necessary to provide adequate cash to fund projected expenditures under this chapter, the Director of Finance

may authorize, by Executive order, the transfer of not more than one hundred million dollars (\$100,000,000), as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account may be made no sooner than July 1, 2004, and shall be repaid no later than July 1, 2007. The Director of Finance shall not authorize a loan from the Motor Vehicle Account, and shall promptly require the repayment of any outstanding balance owed to that account, if the funds are needed in the account to make expenditures authorized in the annual Budget Act and by any other appropriations made by the Legislature.

(2) To provide cash needed for expenditures on projects listed in Section 14556.40, the Legislature may authorize loans from the Public Transportation Account or the State Highway Account to the TCRF through the annual Budget Act. The Legislature may also authorize the State Highway Account to expend funds on behalf of projects listed in Section 14556.40 and those expenditures shall constitute a loan to the TCRF. Loans from the Public Transportation Account shall not exceed a cumulative total of two hundred eighty million dollars (\$280,000,000), and loans from the State Highway Account shall not exceed a cumulative total of six hundred fifty-four million dollars (\$654,000,000).

(b) The Director of Finance shall order the repayment of the loans authorized under this section under those terms and conditions that the director deems appropriate, upon determining that there are adequate funds available for that purpose in the TCRF and that repayment will not jeopardize the availability of money needed to fund approved and projected expenditures under this chapter. All loans from the Public Transportation Account shall be repaid by June 30, 2008, and all loans from the State Highway Account shall be repaid by June 30, 2007. Upon the request of the commission or the Director of Finance, the department shall provide a report, for purposes of this subdivision, projecting the cash needs of the projects approved under this chapter.

(c) (1) Money in the TCRF derived from the General Fund and not currently needed for expenditures on the projects listed in Section 14556.40 may be loaned to the General Fund through the annual Budget Act.

(2) Upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects, the Director of Finance, by Executive order, shall require that funds loaned to the General Fund under paragraph (1) be repaid to the TCRF. All these loans shall be repaid upon the sale of bonds authorized by Article 6.5 (commencing with Section 63048.6) of Chapter 2 of Division 1 of Title 6.7. If the proceeds from those bonds are insufficient to repay the funds loaned to the General Fund under paragraph (1), the remaining amount of those loans shall be repaid from future tribal gaming revenues, additional securitizations against those revenues, or from the General Fund.

(3) Interest at the rate earned by the Surplus Money Investment Fund shall be paid to the TCRF from the General Fund with respect to the cumulative amount loaned from the State Highway Account to the TCRF pursuant to paragraph (2) of subdivision (a) that is in excess of one hundred eighty million dollars (\$180,000,000). The amount of this interest obligation shall be calculated annually on the balance of this portion of this outstanding loan amount. All interest on the loan shall be paid in full on or before June 30, 2007, and the interest payment shall be transferred from the TCRF to the State Highway Account.

(d) Funds loaned to the TCRF under this section shall be used for purposes consistent with any restrictions on uses of those funds imposed under the California Constitution or by statute. The department shall identify specific projects to which those funds may properly be applied and shall propose that application of funds to the commission. The commission shall designate projects to receive those funds through the processes described in Article 3 (commencing with Section 14556.10) and Article 4 (commencing with Section 14556.25). The department shall report periodically to the commission and the Department of Finance on the expenditure of those funds.

(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 63048.65 of the Government Code is amended to read:

63048.65. (a) Upon a filing by the Director of Finance with the bank of a list of designated tribal compacts and the specific portions of the compact assets to be sold, the bank may sell for, and on behalf of, the state, solely as its agent, those specific portions of the compact assets to a special purpose trust. To that end, a special purpose trust is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto. The bank may enter into one or more sales agreements with the special purpose trust on terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. The portion of the compact assets to be sold shall be an amount or amounts determined by the Director of Finance that are necessary to provide the state with net proceeds of the sale, not to exceed one billion five hundred million dollars (\$1,500,000,000), exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing this article, including, but not limited to, the cost of financing one or more reserve funds, any credit enhancements, costs incurred in the issuance of bonds, and operating expenses. Those specific portions of the compact assets may be sold at one time or from time to time.

(b) The special purpose trust may issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all

things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or private entity and pledge the compact assets that it purchased as collateral and security for its bonds. However, to the extent of any conflict between any of the foregoing and the provisions of this article, the provisions of this article shall control. The pledge of any of these assets and of any revenues, reserves, and earnings pledged in connection with these assets shall be valid and binding in accordance with its terms from the time the pledge is made, and amounts so pledged and thereafter received shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(c) (1) The net proceeds of the sale of compact assets by the bank shall be deposited in the following order:

(A) One billion two hundred twenty-two million dollars (\$1,222,000,000) to the Traffic Congestion Relief Fund for the purpose of funding or reimbursing the cost of projects, programs, and activities permitted and necessary to be funded by that fund in accordance with applicable law in the following priority order:

(i) Transfer of four hundred sixty-five million dollars (\$465,000,000) to the State Highway Account for project expenditures.

(ii) Two hundred ninety million dollars (\$290,000,000) for allocation to Traffic Congestion Relief Program projects.

(iii) Three hundred eighty-four million dollars (\$384,000,000) to be allocated equally, as funds become available, for both of the following:

(I) To the Public Transportation Account for project expenditures.

(II) For advanced repayments of local street and road projects due for funding in the 2008–09 fiscal year.

(iv) Eighty-three million dollars (\$83,000,000) to the Public Transportation Account for project expenditures.

(v) Advanced funding of State Transit Assistance loans due for funding in the 2008–09 fiscal year.

(B) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2004–05 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(C) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2003–04 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.

(2) Notwithstanding paragraph (1), if and to the extent it is necessary to ensure to the maximum extent practicable the eligibility for exclusion from taxation under the federal Internal Revenue Code of interest on the bonds to be issued by the special purpose trust, the Director of Finance may adjust the application of proceeds not eligible for exclusion from taxation among the authorized funds described in paragraph (1). The Department of Finance shall submit a report to the Legislature describing any proposed changes among the authorized funds in paragraph (1), and consistent with this paragraph, at least 30 days prior to issuing the bonds pursuant to this article. Amounts deposited in the Traffic Congestion Relief Fund pursuant to paragraph (1) shall be applied as a credit to transfers from the General Fund that the Controller would otherwise be required to make to that fund. Amounts deposited in the Transportation Deferred Investment Fund shall be expended in conformance with Sections 7105 and 7106 of the Revenue and Taxation Code, and the amounts so deposited shall also be applied as a credit to the transfers from the General Fund that the Controller would otherwise be required to make under those sections. The Legislature hereby finds and declares that the deposits and credits described in this subdivision do not constitute the use of the proceeds of bonds or other indebtedness to pay a year-end state budget deficit as prohibited by subdivision (c) of Section 1.3 of Article XVI of the California Constitution. Subject to any constitutional limitation, the use and application of the proceeds of any sale of compact assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.

(d) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, that are neither sold to the special purpose trust nor otherwise appropriated, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(e) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be held in an account within the Special Deposit Fund until those funds are sold or otherwise applied pursuant to this subdivision. From time to time, at the direction of the Director of Finance, any moneys in this account shall be deposited and applied in accordance with subdivision (c) or shall be deemed to be compact assets for purposes of sale to the special purpose trust pursuant to this article. If the Director of Finance determines that the bonds authorized pursuant to this article cannot be successfully issued by the special purpose trust, funds within the account shall be deposited in accordance with subdivision (c). In addition, all subsequent revenues

remitted pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be used to satisfy the purposes of subdivision (c). When the amounts described in subdivision (c) have been paid to the funds named in that subdivision either pursuant to this article or by other appropriations or transfers, thereafter the revenues received by the state from Section 4.3.3 of the compact shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

(f) The principal office of the special purpose trust shall be located in the County of Sacramento. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank. The members of the board of directors of the bank as of the effective date of this article, the Director of the Department of Transportation, and the Director of General Services, shall each serve ex officio as the directors of the special purpose trust. Any of these directors may name a designee to act on his or her behalf as a director of the special purpose trust. The Director of Finance or his or her designee shall serve as chair of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The Legislature hereby finds and declares that the duties and responsibilities of the directors of the special purpose trust and the duties and responsibilities of the Director of Finance established under this article are within the scope of the primary duties of those persons in their official capacities. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank.

SEC. 4. Section 99310.6 of the Public Utilities Code is amended to read:

99310.6. Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the Public Transportation Account so that unliquidated encumbrances are not reflected in the fund balance or financial statements.

SEC. 5. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been

5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(A) For the 2001–02 fiscal year, those transfers may not be more than eighty-one million dollars (\$81,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds eighty-one million dollars (\$81,000,000).

(B) For the 2002–03 fiscal year, those transfers may not be more than thirty-seven million dollars (\$37,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds thirty-seven million dollars (\$37,000,000).

(C) For the 2003–04 fiscal year, no transfers shall be made pursuant to this paragraph, except that if the amount to be otherwise transferred pursuant to this paragraph is in excess of eighty-seven million four hundred fifty thousand dollars (\$87,450,000), then the amount of that excess shall be transferred.

(D) For the 2004–05 fiscal year, no transfers shall be made pursuant to this paragraph, and of the amount that would otherwise have been transferred, one hundred forty million dollars (\$140,000,000) shall instead be transferred to the Traffic Congestion Relief Fund as partial repayment of amounts owed by the General Fund pursuant to Item 2600-011-3007 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002).

(E) For the 2005-06 fiscal year, no transfers shall be made pursuant to this paragraph.

(F) For the 2006-07 fiscal year, no transfers shall be made pursuant to this paragraph, except that if the amount to be otherwise transferred pursuant to this paragraph is in excess of two hundred million dollars (\$200,000,000), then the amount of that excess shall be transferred.

(2) All revenues, less refunds, derived under this part at the 4 3/4-percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4 3/4-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the

Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(5) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Public Transportation Account as a trust fund pursuant to subdivision (a), the Controller may use the Public Transportation Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

SEC. 6. Section 7107 is added to the Revenue and Taxation Code, to read:

7107. Pursuant to the requirements of paragraph (1) of subdivision (b) of Section 1 of Article XIX B of the California Constitution, moneys in the Transportation Investment Fund derived from the 2005-06, 2006-07, and 2007-08 fiscal year transfers from the General Fund made pursuant to subdivision (a) and paragraph (1) of subdivision (b) of Section 1 of Article XIX B of the California Constitution are hereby continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in Section 7104 as that section read on March 6, 2002.

SEC. 7. Section 183 of the Streets and Highways Code is amended to read:

183. (a) All money in the State Highway Account in the State Transportation Fund derived from federal sources or from appropriations to other state agencies, or deposited in the account by local agencies or by others, is continuously appropriated to, and shall be available for expenditure by, the department for the purposes for which the money was made available.

Unless otherwise expressly provided for by law, none of the balance of the money in the State Highway Account shall be expended until it has been specifically appropriated by the Legislature or made available pursuant to Section 13322 of the Government Code.

The Budget Act appropriations shall be made on a program basis only and shall not identify the specific capital outlay projects to be funded. The commission shall be responsible for allocating the funds to specific projects within the budget program categories, except that all funds described in Chapter 5 (commencing with Section 2200) of Division 3 shall be allocated on a program basis to the department for allocation pursuant to that chapter.

(b) Notwithstanding subdivision (a), commencing with the 1985–86 Budget, the department shall submit with its budget requests a detailed description of the acquisition, improvement, and construction of office building projects to the Legislature for review. The total amount appropriated for those projects shall be identified as a separate line item in the Budget Act. Funds appropriated for those projects shall be allocated by the commission only for projects which have been approved by the Legislature. Minor projects are to be defined consistent with Section 167. The commission may substitute for approved minor projects, if the total sum of minor projects is within the amount approved by the Legislature.

(c) Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the State Highway Account so that unliquidated encumbrances are not reflected in the fund balance or financial statements.

SEC. 8. Section 188.10 of the Streets and Highways Code is amended to read:

188.10. (a) The Toll Bridge Seismic Retrofit Account is hereby created in the State Transportation Fund. The money in the account is hereby appropriated, without regard to fiscal years, to the department for the purpose of funding seismic retrofit or replacement of the bridges listed in Section 188.5. Notwithstanding Section 11012 of the Government Code, the department, in consultation with the Department of Finance and the Office of the State Treasurer, may authorize the investment of bond proceeds or commercial paper proceeds deposited into the account in obligations permitted by the Treasurer. Those invested amounts may be held by a trustee who is either the Treasurer or who is selected by the Treasurer. Authorized investments made pursuant to this section shall be included as cash balance for purposes of reporting the condition of the account in the Governor’s proposed budget or pursuant to the reporting requirement contained in subdivision (b) of Section 14556.9 of the Government Code.

(b) The Department of Finance shall provide notification to the Joint Legislative Budget Committee and to the transportation policy committee in each house in the form of a financing plan or pro forma at least 60 days prior to the initial issuance of any commercial paper or the issuance of any bonds for purposes of the toll bridge seismic retrofit program. The financing plan or pro forma shall include all of the following components:

(1) The amount and form of the debt issuance or issuances, the term of the issuance or issuances, repayment and security provisions, the amount

and structure of any reserve funds, and all other details of the proposed financing.

(2) All necessary information with respect to the sources and uses of funds to construct the projects identified in the toll bridge seismic retrofit program and the timing of expenditures by each fund source by fiscal year.

(3) An assessment of funding available for the Bay Area Toll Authority for authorized projects as a result of the financing.

(c) The Department of Finance is not required to provide additional notification to the Legislature after meeting the requirements of subdivision (b) unless additional bonds are issued or changes are made to existing bonds that alter the content of the financing plan it submitted under subdivision (b). The Department of Finance shall notify the Legislature within 60 days of the closing of a refunding or an advance refunding of an existing bond but is not required to include this information in its report under subdivision (b).

(d) No interest income earned as a result of investments made pursuant to subdivision (a), or from reserve funds created to support the financing, shall be used to pay project costs that are in excess of four billion six hundred thirty-seven million dollars (\$4,637,000,000). No reserve funds, other than a required debt service reserve fund, shall be in place subsequent to the completion of the seismic retrofit projects.

(e) Notwithstanding any other provision of law, the Department of Finance may adjust the budgeting, accounting, and reporting system for the account so that unliquidated encumbrances are not reflected in the fund balance or financial statements.

SEC. 9. Section 4000.39 is added to the Vehicle Code, to read:

4000.39. (a) Except as provided under this section, the department shall implement the requirements of Section 4000.38 on January 1, 2006.

(b) On January 1, 2006, the Director of Finance shall do all of the following:

(1) Determine whether the department has commenced implementation of Section 4000.38.

(2) If the department has not commenced implementation of Section 4000.38, the Director of Finance shall determine whether the failure to implement was due to circumstances beyond the control of the department.

(c) On February 1, 2006, the Director of Finance shall report to the Governor and the Legislature regarding his or her findings under subdivision (b).

(d) If the report submitted under subdivision (c) states that the department did not implement Section 4000.38 on January 1, 2006, and the failure to implement was due to circumstances beyond the control of the department, the date for implementation of Section 4000.38 is hereby extended from January 1, 2006, to March 1, 2006.

(e) On March 1, 2006, if the date for implementation was extended to March 1, 2006, under subdivision (d), the Director of Finance shall do all of the following:

(1) Determine whether the department has commenced implementation of Section 4000.38.

(2) If the department has not commenced implementation of Section 4000.38, the Director of Finance shall determine whether the failure to implement was due to circumstances beyond the control of the department.

(f) On April 1, 2006, the Director of Finance shall report to the Governor and the Legislature regarding his or her findings under subdivision (e).

(g) If the report submitted under subdivision (f) states that the department did not implement Section 4000.38 on March 1, 2006, and the failure to implement was due to circumstances beyond the control of the department, the date for implementation of Section 4000.38 is hereby extended from March 1, 2006, to May 1, 2006.

(h) On May 1, 2006, if the date for implementation was extended to May 1, 2006, under subdivision (g), the Director of Finance shall do all of the following:

(1) Determine whether the department has commenced implementation of Section 4000.38.

(2) If the department has not commenced implementation of Section 4000.38, the Director of Finance shall determine whether the failure to implement was due to circumstances beyond the control of the department.

(i) On June 1, 2006, the Director of Finance shall report to the Governor and the Legislature regarding his or her findings under subdivision (h).

(j) If the report submitted under subdivision (i) states that the department did not implement Section 4000.38 on May 1, 2006, and the failure to implement was due to circumstances beyond the control of the department, the date for implementation of Section 4000.38 is hereby extended from May 1, 2006, to July 1, 2006.

(k) On July 1, 2006, if the date for implementation was extended to July 1, 2006, under subdivision (j), the Director of Finance shall do all of the following:

(1) Determine whether the department has commenced implementation of Section 4000.38.

(2) If the department has not commenced implementation of Section 4000.38, the Director of Finance shall determine whether the failure to implement was due to circumstances beyond the control of the department.

(l) On August 1, 2006, the Director of Finance shall report to the Governor and the Legislature regarding his or her findings under subdivision (k).

(m) If the report submitted under subdivision (l) states that the department did not implement Section 4000.38 on July 1, 2006, and the failure to implement was due to circumstances beyond the control of the department, the date for implementation of Section 4000.38 is hereby extended from July 1, 2006, to October 1, 2006.

(n) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure adequate funding for the operation of state government, it is necessary that this act take effect immediately.